

**REMARKS**

This amendment is being filed in response to the Office Action mailed April 14, 2009. The shortened statutory period for response is set to expire on July 14, 2009. Accordingly, it is respectfully submitted that this response is being timely filed.

Claims 1-8, 12, 13, 18-21, 32-34, 39 and 40 were pending in the present application. Applicant initially wishes to express its appreciation of the telephone call received from Examiner Le on April 8, 2009 suggesting that certain claim amendments be introduced to the various method claims to place the claims in condition for allowance by further clarifying certain structure associated with the method claims so as to ensure compliance with *Bilski's* "machine-or-transformation" test for patent eligible subject matter. As such, proposed claim amendments were submitted to Examiner Le on April 9, 2009 which the Examination indicates in the Office Action would resolve most issues with the claims.

Even though the majority of the proposed claim amendments would have resolved all outstanding issues with respect to the claims, the Examiner rejected claims 1-8, 12, 13, 18-21 and 32-34 under 35 U.S.C. § 101 and further under 35 U.S.C. § 112, second paragraph, as not defining sufficient structure in the claims for defining which type of machine or structure performs certain features of the method claims. In particular, in order to overcome these rejections, the Examiner suggests in the Office Action that these rejections "could be overcome by adding some type of machine that performs the 'monitoring' and 'determining' steps of claim 1." Pursuant to the Examiner's further suggestions, the claims have been amended above to introduce sufficient structure into the claims to define the structure performing the 'monitoring' and 'determining' steps, among other steps, so as to satisfy the requirements of § 101 and § 112. Reconsideration is respectfully requested.

In particular, claim 1 has been amended to recite that the database network site performs the steps of "monitoring the data and service delivery path to determine a user's access to the

first data inputs on the database network site and access to the patient medical services delivery application program” and “determining a revenue for the user’s access to the networked computing system based upon at least one of the user’s access to the first data inputs on the database network site and access to the patient medical services delivery application program.” Applicant notes that claims 6, 8, 18-21, 32 and 33 have similarly been amended to incorporate the structure performing various aspects of the various method claims. For example, the various features performed by the structure associated with the database network site, the networked computing system and the input-receiving websites are further highlighted by the above amendments. Applicant further directs the Examiner’s attention to paragraph [0037] of the present specification that describes server 405 as one representative structure for the networked computing system in reciting:

It should be recognized that server 405 represents a networked computing system which may consist of additional hardware and software including databases, operating systems, communications channels, and all other necessary components required to receive large volumes of data from large numbers of users around the world and to be able to store, refine, analyze, and retransmit data.

Furthermore, specifically with respect to independent claim 32, a computer implemented method for improved data management in the healthcare industry is provided in which the following respective structure is recited for performing the respective steps (a)-(d): an implanted medical device, a patient accessible electronic interface, a networked computing system, and a web-based site. The computer implemented method of amended independent claim 33 recites similar structure for performing its various steps. Clearly, such claims recite sufficient structure to satisfy the “machine-or-transformation” test by imposing meaningful limits on the method claims’ scope and are not merely intended field-of-use limitations.

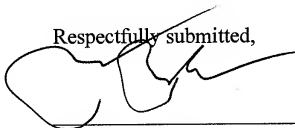
In view of the foregoing, it is respectfully submitted that claims 1-8, 12, 13, 18-21 and 32-34, as amended above, now satisfy the requirements of § 101 and § 112, and it is respectfully submitted that such claims are in proper condition for allowance. Further, it is noted that the network and system claims of claims 39 and 40, respectively, were not rejected in the Office

Action, and it is respectfully submitted that such “apparatus” claims are also in proper condition for allowance.

### CONCLUSION

Applicant believes that this case is in good condition for allowance, and a Notice of Allowance is earnestly solicited. If a telephone or further personal conference would be helpful, the Examiner is invited to call the undersigned, who will cooperate in any appropriate manner to advance prosecution. The Commissioner is directed and authorized to charge all additional required fees, except for the Issue Fee and the Publication Fee, to **Deposit Account Number 50-2638**. Please also credit any overpayments to said Deposit Account. Please ensure that Attorney Docket Number P0009618.00 is referred to when charging any payments or credits for this case.

Respectfully submitted,



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